

**FILED**

FEB 25 2014

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

<p>In the Matter of the Petition by the Division of Oil, Gas and Mining for an Order:</p> <ol style="list-style-type: none"><li>(1) Forfeiting to the Division Homeland's bond associated with the Brown 3-2 well;</li><li>(2) Authorizing the Division to complete plugging and reclamation of the Brown 3-2 well and the lands affected by the well;</li><li>(3) Authorizing the Division to take other action necessary to recover from Homeland any and all costs associated with the plugging and reclamation of the Brown 3-2 well; and</li><li>(4) Ordering Homeland to establish new bond coverage for its remaining wells in the State of Utah.</li></ol>	<p><b>STIPULATED AGREEMENT</b></p> <p>Docket No.: 2013-026 Cause No.: 131-134</p>
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**INTRODUCTION**

On August 12, 2013, the Utah Division of Oil, Gas and Mining ("**Division**" or "**DOGM**") issued a Notice of Agency Action ("**NOAA**") to Homeland Gas & Oil, Ltd. ("**Homeland**" or "**Respondent**"), commencing an administrative adjudicative proceeding to consider appropriate action to be taken pursuant to Utah Admin. Code R649-3-36 ("Shut-in and Temporarily Abandoned Wells") for failure to comply with a Notice of Violation ("**NOV**") for the Brown 3-2 Well, located in Section 3 of Township 1 South, Range 2 West, Duchesne County, Utah ("**Well**").

The matter was originally scheduled to be heard at the Board of Oil, Gas and Mining's ("**Board**") September 25, 2013 hearing. However, five days before that hearing took place, the parties agreed to continue the matter to the Board's next regularly scheduled Board hearing on

October 23, 2013 because Homeland had made progress in tying the well into an existing pipeline, but the well had built up with condensate. The day before the October Board hearing, the parties agreed to continue the matter again so Homeland could perforate additional zones intersecting the wellbore in order to put the well back onto production. The parties signed the necessary documents to continue the matter to the Board's next hearing on December 4, 2013. The day before that hearing, the parties agreed to continue the matter again because Homeland determined it was best to plug and abandon the well. Accordingly, the parties agreed to continue the matter to the January 22, 2014 Board hearing.

Prior to the January 22, 2014 Board hearing, Homeland contacted the Division and asked for additional time to return the Well to production. Homeland indicated that it wished to extend the hearing an additional month, and did not wish to plug and abandon the Well because it had spent a large amount of money and had done extensive work on the Well. The Division indicated it did not support another extension without further and more conclusive proof of production capability, and invited Homeland to retain an attorney to make arguments at the upcoming Board hearing as to why additional shut-in time should be granted. Homeland retained Thomas W. Clawson of the law firm Van Cott, Bagley, Cornwall & McCarthy, who immediately filed exhibits with the Board showing the Well's potential capability for oil production and immediately retained expert witnesses to testify about the Well's integrity.

The parties' counsel appeared at the January 22, 2014 Board hearing and explained that an agreement in principle had been made between the parties, and made an oral motion that the matter be continued to the next regularly scheduled Board hearing on February 26, 2014. The Board granted the motion and the matter was continued to the February 26, 2014 Board hearing.

The parties represented to the Board that before the February hearing, the parties would submit a stipulated agreement outlining the terms of the agreement made between the parties.

Based on discussions between the parties and their respective counsel, and based upon Homeland's representations that the Well is capable of producing oil, the parties hereby enter into the following agreement, the entirety of which is contained in this Stipulation to Judgment. This Stipulation to Judgment represents the full and complete agreement of the parties, and is binding and enforceable as to both the Division and Homeland.

#### **AGREEMENT**

1. The parties hereby agree that continuing hearing of this matter from the February 26, 2014 Board hearing to the May 28, 2014 Board hearing will be in the best interests of the parties and will allow Homeland the necessary time to fulfill the Plan of Action (defined below).

2. Homeland agrees to work diligently to repair the Well and put it onto production according to the following schedule ("Plan of Action"):

i. **Phase 1: Repair the Well**

On or before April 18, 2014, or such later date as agreed to in writing by the Division pursuant to paragraph 6, Homeland shall accomplish the following:

- i. Remove the fish currently in the wellbore;
- ii. Update the Sundry Notices to reflect proposed activity on the well;
- iii. Test the back side of the existing 5.5-inch casing;
- iv. Perforate the 5.5-inch casing at 2000' (two-thousand feet);
- v. Install a cast iron cement retainer (CICR) at approximately 1950' to prepare for cement pumping;

- vi. Pump up to 600 (six hundred) sacks of cement through the CICR into the wellbore in order to remediate the existing holes in the wellbore (current holes in the wellbore are present at 2,645' below surface); and
- vii. Submit a cement bond log showing at least five hundred feet of good cement, assuring that the well is of sufficient integrity to assure no communication with surrounding wells and isolation of fresh water zones from injection zone.

ii. **Phase 2: Install New Casing**

On or before May 15, 2014 or two weeks after delivery of casing, whichever is later, but in no event later than May 23, 2014 unless agreed to in writing by the Division pursuant to paragraph 6, Homeland shall accomplish the following:

- i. Set four-inch flush-joint casing inside the existing 5.5-inch casing;
- ii. Install centralizers on four-inch casing. At a minimum, unless otherwise recommended by the cement contractor and agreed to by the Division, centralizers shall be placed from bottom of well through productive zones (9,600' to 8,400'), through the area with casing holes (3,200' to 2,000') and from the surface shoe to surface (1,000' to 0'). Centralizers shall be placed on every fourth joint, except at the bottom of the wellbore where a centralizer shall be placed on each of the three bottom joints; and
- iii. Cement the four-inch casing from the bottom of the wellbore (approx. 9,600') to surface.

iii. **Phase 3: Complete and Produce**

On or before May 23, 2014, or such later date as agreed to in writing by the Division pursuant to paragraph 6, Homeland shall accomplish the following:

- i. Complete the well in preparation for commencement of production;
- ii. Perforate the wellbore at the desired interval; and
- iii. Put the well onto production.

3. All three of the Phases in the Plan of Action must be completed to the Division's satisfaction, which shall not be unreasonably withheld.

4. In the event Homeland complies with paragraphs 2 and 3, the Division will withdraw the Notice of Agency Action currently pending before the Board.

5. If Homeland fails to comply with paragraphs 2 and 3, the Division may immediately give notice of this failure to Homeland, and the Board shall immediately, without further hearing or notice, execute and enter the Findings of Fact, Conclusions of Law, and Order in the form attached as Exhibit A. Notice under this paragraph shall be in writing and delivered by certified mail, postage prepaid, to the following:

Homeland Gas & Oil, Ltd.  
Attn: Craig S. Phillips  
58 East 100 North  
Roosevelt, Utah, 84066

*with copy to counsel:*  
Van Cott, Bagley, Cornwall & McCarthy  
Attn: Tom Clawson and Matthew Brahana  
36 South State Street, Suite 1900  
Salt Lake City, Utah 84111

6. The parties recognize that inclement weather, unavailability of materials required under the Plan of Action, unavailability of subcontractors to perform certain work, or other obstacles may influence, effect, delay, or prevent Homeland's ability to comply with the schedule outlined above. Should Homeland be prevented from complying with the deadlines in the Plan of Action for any reason beyond its sole control, including but not limited to weather, product availability,

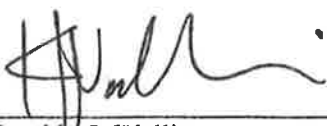
or subcontractor availability, Homeland shall submit a proposed modification in writing to the Division, which must include an explanation of why Homeland cannot comply with the deadlines set forth in the Plan of Action. Such notice shall be provided to the Division by certified mail, postage prepaid, to the following:

Utah Division of Oil, Gas, and Mining  
Attn: John Rogers, Associate Director  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84116


*with copy to counsel:*  
Utah Attorney General's Office  
Attn: Steve Alder and Kass Wallin  
1594 West North Temple, Suite 300  
Salt Lake City, Utah 84116

If the Division concurs in the change, which shall not be unreasonably withheld, it will advise Homeland, and a signed modification of this agreement will be provided to Homeland. If the Division does not agree, it will advise Homeland and Homeland may petition the Board for an extension. In either case, the Division shall provide notice to Homeland of its decision pursuant to the notice provision in paragraph 5.

**SO STIPULATED:**

  
\_\_\_\_\_  
By: Cassidy J. Wallin  
Attorney for the Division

2/25/14  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
By: Matthew S. Brahana  
Attorney for Homeland Gas and Oil, Inc.

2/25/14  
\_\_\_\_\_  
Date

# EXHIBIT A

(To Stipulated Agreement, dated February 25, 2014, by and between  
Homeland Gas & Oil, Ltd. and the Utah Division of Oil, Gas, and Mining)

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

<p>In the Matter of the Petition by the Division of Oil, Gas and Mining for an Order:</p> <ul style="list-style-type: none"><li>(1) Forfeiting to the Division Homeland's bond associated with the Brown 3-2 well;</li><li>(2) Authorizing the Division to complete plugging and reclamation of the Brown 3-2 well and the lands affected by the well;</li><li>(3) Authorizing the Division to take other action necessary to recover from Homeland any and all costs associated with the plugging and reclamation of the Brown 3-2 well; and</li><li>(4) Ordering Homeland to establish new bond coverage for its remaining wells in the State of Utah.</li></ul>	<p style="text-align:center"><b>(PROPOSED) FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER</b></p> <p style="text-align:center">Docket No.: 2013-026 Cause No.: 131-134</p>
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The Board of Oil, Gas and Mining ("**Board**"), pursuant to the Stipulated Agreement entered into by counsel for the Division of Oil, Gas and Mining ("**Division**") and Homeland Gas & Oil, Ltd. ("**Homeland**") dated February 25, 2014, hereby enters the following Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

1. Homeland is a Utah corporation in good standing having its principal place of business in Roosevelt, Utah. Homeland is qualified to do business in Utah and operates several wells within the State, including the Brown 3-2 Well ("**Well**"), located in Section 3 of Township 1 South, Range 2 West, Duchesne County, Utah.



2. On December 28, 2012, the Division issued a Notice of Violation (“NOV”) to Homeland because the Well had been shut-in and nonproductive for a period of more than five years, in violation of Utah Admin. Code R649-3-36. The NOV asked Homeland to “fulfill full cost bonding requirements” for the Well and “also submit all information as required by R649-3-36 or plug and abandon or place the [Well] on production.” The compliance deadline was set for February 8, 2013.

3. On March 12, 2013, the Division issued a Notice of Agency Action to Homeland, commencing an informal adjudicative proceeding regarding whether the Well should be plugged. On April 3, 2013, an informal hearing was held at the Department of Natural Resources building in Salt Lake City. Both Homeland and the Division participated in the hearing. On May 9, 2013, the presiding officer issued his decision on the informal adjudication, which ordered the Well to be plugged by July 2, 2013.

4. Between June and September of 2013, Homeland was working with and waiting for Kinder Morgan to repair the Well’s connection to the existing gas gathering line and to reestablish metering on the Well.

5. On July 2, 2013, Homeland and the Division entered into an agreement whereby Homeland agreed to plug or produce the Well by August 2, 2013. The Well was not plugged or producing by that date so the Division filed a Notice of Agency Action on August 12, 2013 asking the Board for a formal hearing on the matter at the next regularly scheduled Board hearing on September 25, 2013.

6. On September 20, 2013, Homeland and the Division entered into an agreement to postpone the Board’s hearing of the matter until the Board’s next regularly-scheduled hearing on October 23, 2013 and agreed to plug or produce the Well by the October 23, 2013 Board hearing.

7. On October 22, 2013, Homeland and the Division entered into an agreement to postpone the Board's hearing of the matter until the Board's next regularly-scheduled hearing on December 4, 2013. At that time, Homeland agreed to plug or produce the Well by the December Board hearing.

8. On December 3, 2013, Homeland and the Division entered into an agreement to postpone the Board's hearing of the matter until the Board's next regularly-scheduled hearing on January 22, 2014.

9. Between September and the January Board hearing, Homeland discovered there was a tubing leak in the Well and that the Well casing was more deteriorated than expected. Homeland began reworking the Well and encountered multiple setbacks. Throughout this time, Homeland worked closely with the Division for its technical expertise in resolving the issues encountered.

10. On February 25, 2014, Homeland and the Division entered into a Stipulated Agreement setting forth a Plan of Action whereby Homeland agreed to repair the wellbore and produce the Well on or before May 23, 2014, unless said deadline was extended by the Division.

11. Homeland has been unable to comply with the deadlines, as amended (if any), in the February 25, 2014 Stipulated Agreement.

12. As of the date of this order, the Brown 3-2 Well remains inactive and nonproductive.

#### **CONCLUSIONS OF LAW**

13. Proper notice of the time, place, and purpose of the hearing was given to all parties affected by the Notice of Agency Action as required by law and the rules and regulations of the Board and Division.

14. The Board has jurisdiction over all matters covered by the Notice of Agency Action and all parties affected by the Notice of Agency Action, and has the power and authority to render the Order herein set forth pursuant to Utah Code §40-6-5.

15. Despite Homeland's concerted effort to return the Well to production, in conjunction with the Division, it is unlikely the Well can be repaired or if repaired, returned to production in paying quantities. Accordingly, the Stipulated Agreement is unsatisfied.

16. Plugging and abandonment of the Well is necessary in order to prevent the escape of oil, gas, or water into another formation; the detrimental intrusion of water into an oil or gas reservoir; the pollution of fresh water supplies by oil, gas, or salt water; blowouts; cavings; seepages; fires; and unreasonable loss of land or improvements. *See* Utah Code § 40-6-5(2)(d).

17. The Well must be plugged since it has not been active or produced for at least five years, and since Homeland has failed to show good cause for extended or continued shut-in time. *See* Utah Admin. Code R649-3-36(3).

### **ORDER**

Based upon the Notice of Agency Action, testimony and evidence submitted, and the Findings of Fact and Conclusions of Law state above, the Board hereby orders:

1. Homeland is required to plug and abandon the Brown 3-2 Well within thirty days from the date of this Order.

2. The Well shall be plugged and abandoned to the Division's satisfaction and according to the requirements set forth in Utah Administrative Code R649-3-24, "Plugging and Abandonment of Wells."

3. If, after thirty days from the date of this Order, the Well has not been plugged and abandoned to the Division's satisfaction and according to the requirements set forth in Utah

Administrative Code R649-3-24, "Plugging and Abandonment of Wells," the Division shall be authorized to seek forfeiture of Homeland's bond at the Board's next regularly scheduled hearing.

4. Pursuant to Utah Admin. Code Rules R641 and Utah Code § 63G-4-204 to 208, the Board has considered and decided this matter as a formal adjudication.

5. This Order is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted as weighed and analyzed by the Board in the exercise of its expertise as set forth in Utah Code § 40-6-4(2)(a) through (3), and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Administrative Procedures Act, Utah Code § 63G-4-208 and Utah Admin. Code R641-109.

6. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. § 63G-4-208(e) - (g), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order is issued. Utah Code Ann. §§ 63G-4-401(3)(a) and 403. As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. § 63G-4-302, entitled, "Agency Review – Reconsideration," states:

- (1) (a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63G-4-301 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.
- (b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the

- order.
- (2) The request for reconsideration shall be filed with the agency and one copy shall be mailed to each party by the person making the request.
  - (3) (a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.  
(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

*Id.* The Board also hereby notifies the parties that Utah Admin. Code Rule R641-110-100, which is part of a group of Board rules entitled, "Rehearing and Modification of Existing Orders," states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of that month.

*Id.* See Utah Admin. Code Rule R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann. § 63G-4-302 and the deadline in Utah Admin. Code R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

7. The Board retains continuing jurisdiction over all the parties and over the subject matter of this cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this order by the Utah Supreme Court.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014

**STATE OF UTAH  
UTAH BOARD OF OIL, GAS AND MINING**

By: \_\_\_\_\_

Ruland J. Gill, Jr., Chairman